

U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
WASHINGTON, D.C. 20531

**OFFICIAL BUSINESS**  
PENALTY FOR PRIVATE USE, \$300

POSTAGE AND FEES PAID  
U.S. DEPARTMENT OF JUSTICE  
JUS-436



THIRD CLASS



U.S. Department of Justice

*United States Trustee  
Central District of California*

3101 Federal Building  
300 N. Los Angeles Street  
Los Angeles, California 90012

213/894-6811 CH11  
FTS 798-6811  
213/894-6387 CH 7  
FTS 798-6387

RETURN TO [REDACTED]

Dear Attorney:

The United States Trustee for the Central District of California has determined that it is in the best interest of the public to establish **Guidelines** for practice before the United States Bankruptcy Court in this District when related to matters within his responsibility or supervision under 28 U.S.C. § 586.

The attached are the first in a series of practical **Guidelines** which will be released from time to time. For counsel's convenience in setting up a permanent storage system for the **Guidelines**, they have been printed so that they can be punched and placed in a three-ring notebook.

Each **Guideline** is subject to revision as is deemed necessary by the United States Trustee. In order to ensure the continued timeliness of your set of **Guidelines**, a separate *Table of Contents* of current **Guidelines** and their Revision Dates will also be released on an as-needed basis.

The United States Trustee reserves the right to vary any and all requirements set forth in these **Guidelines** as is considered appropriate on a case by case basis.

Sincerely,

UNITED STATES TRUSTEE  
CENTRAL DISTRICT OF CALIFORNIA



OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINES**  
FOR FULFILLING THE REQUIREMENTS  
OF THE UNITED STATES TRUSTEE



## OFFICE OF THE UNITED STATES TRUSTEE

# GUIDELINES

## FOR FULFILLING THE REQUIREMENTS OF THE UNITED STATES TRUSTEE

## TABLE OF CONTENTS

Line No.	Title	Current Version Date
1	Initial Requirements of U.S. Trustee upon Filing of Chapter 11 Cases and Use of Cover Sheet	June 1987
2	Real Property Questionnaire in Chapter 11 Cases with Any Real Property	June 1987
3	Matters Requiring Submission to U.S. Trustee Prior to Filing with Bankruptcy Court	February 1989
4	Form for Comments and Execution by Office of U.S. U.S. Trustee	February 1989
5	Interim Statements and Operating Reports	June 1987
6	Applications to Employ Professional Persons	February 1989
7	Applications for Payment of Professional Fees and Expenses	February 1989
8	Applications to Use, Sell or Lease Property of the Estate Outside the Ordinary Course of Business	February 1989
9	Ex Parte Applications	February 1989
10	Chapter 11 Quarterly Fee Payments	June 1987
11	Restriction against Naming of U.S. Trustee or Members of his Office as Parties to Litigation	June 1987
12	Substitution of Debtor's Attorney in Chapter 11 Cases	June 1987
13	Debtor-in-Possession Bank Accounts	June 1987
14	Fixing Bar Dates for Filing Proofs of Claim	June 1987
15	Special Areas of Interest to the Office of the United States Trustee in Chapter 11 Cases	June 1987
16	Disclosure Statements	February 1989
17	Chapter 11 Timetable and Checklist	February 1989
18	Pre-Petition Payments to Professionals and Filing Monthly Post-Petition Professional Fee Statements	May 1988

Revised  
February 1989



OFFICE OF THE UNITED STATES TRUSTEE

GUIDELINE NO. 1  
(June 1987)

INITIAL REQUIREMENTS OF U.S. TRUSTEE UPON FILING OF  
CHAPTER 11 CASES AND USE OF COVER SHEET

Debtors in Possession and Chapter 11 Trustees shall submit each of the following documents to the United States Trustee within seven (7) days after the filing of the Chapter 11 Petition. Such documents (and copies of them) are *not* to be filed with the Bankruptcy Court. Such documents shall have attached to them the **INITIAL FILING REQUIREMENTS COVER SHEET** (Form UST-2), a copy of which is attached to this Guideline. Debtors are to check off the boxes on the form indicating which documents are attached, which documents have been previously submitted, and which explanations are attached instead of the required documents.

If any document is not attached or has not been previously submitted, an explanation for such non-inclusion must be given. The sufficiency of the explanation will be subject to review by the United States Trustee. Insufficient explanations may result in the filing of a motion to dismiss or convert the case.

If any document is not filed initially, any subsequent filings require use of an additional **INITIAL FILING REQUIREMENTS COVER SHEET** (Form UST-2) indicating the particular document being filed at that time.

**REQUIRED DOCUMENTS:**

1. **REAL PROPERTY QUESTIONNAIRE** (Form UST-5) for each parcel of real property leased or owned, or in the process of being purchased, by the Debtor.
2. Proof of Insurance Coverage (Submit Declaration Pages for Each Policy):
  - A. General Comprehensive Public Liability Insurance
  - B. Fire and Theft Insurance
  - C. Worker's Compensation Insurance
  - D. Vehicle Insurance
  - E. Product Liability Insurance
  - F. Any other Insurance coverage customary in the Debtor's Business
3. Most recently filed State and Federal Payroll Tax Returns with all schedules and attachments
4. Most recently filed State Sales Tax Return with all schedules and attachments
5. Most recently prepared audited and unaudited Financial Statements
6. Proof of Establishment of Debtor in Possession Bank Accounts:
  - A. General Account
  - B. Payroll Account
  - C. Tax Account
  - D. Declaration under Penalty of Perjury from the Debtor verifying that all Pre-Petition Bank Accounts have been closed
7. Projected Operating Statement for first Thirty (30) days of Operation
8. Applications for Compensation to Principals, Partners, Officers or Directors of the Debtor
9. Copy of any trust agreements or conveyances (other than leases) to which Debtor is a party or under which Debtor holds, has possession of, or operates any property or business as a trustee or otherwise.

Debtors in Possession and Chapter 11 Trustees are directed to review the **NOTICE OF REQUIREMENTS OF THE UNITED STATES TRUSTEE FOR DEBTORS IN POSSESSION IN CHAPTER 11 CASES** (Form UST-1) which sets forth further details as to the above documents and sets forth additional requirements and time limits for compliance with the requirements of the United States Trustee.



Attorney Name, Address and Telephone

File with U.S. Trustee within Seven (7) Days after Filing  
of Chapter 11 Petition. Do Not File in Bankruptcy Court.

## Office of the United States Trustee

In re:

Chapter 11 Proceeding

Case Number: \_\_\_\_\_ - \_\_\_\_\_

Debtor.

### INITIAL FILING REQUIREMENTS COVER SHEET

Mark One Box for Each Required Document			You must attach each of the following documents or a satisfactory explanation for your failure to attach a document. Failure to meet these requirements may result in the filing of a motion to dismiss or convert the case.
Document Attached	Previously Submitted	Explanation Attached	REQUIRED DOCUMENTS:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1. Real Property Questionnaire (UST-5) for each Parcel of Real Property
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2. Proof of Insurance Coverage: (Submit Declaration Pages) A. General Comprehensive Public Liability Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Fire and Theft Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	C. Worker's Compensation Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Vehicle Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	E. Product Liability Insurance
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Other Customary Insurance Coverage
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3. Most recently filed State and Federal Payroll Tax Return with all Schedules
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4. Most recently filed State Sales Tax Return with all Schedules and Attachments
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5. Most recently prepared Audited and Unaudited Financial Statements
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6. Proof of Establishment of Debtor-in-Possession Bank Accounts: A. General Account
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Payroll Account
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	C. Tax Account
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Debtor Declaration verifying Closing of all Pre-Petition Bank Accounts
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7. Projected Operating Statement for first Thirty (30) days of Operation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8. Applications for Compensation by Partners, Officers or Directors of the Debtor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9. Copies of Trust Agreements to which Debtor is a party or under which holds Property

Dated: \_\_\_\_\_, 19 \_\_\_\_\_

Attorney for Debtor in Possession or Trustee

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 2**  
*(June 1987)*

**REAL PROPERTY QUESTIONNAIRE IN CHAPTER 11**  
**CASES WITH ANY REAL PROPERTY**

In all Chapter 11 cases in which the Debtor leases or owns, or is in the process of purchasing, any parcels of real property, the Debtor shall file with the United States Trustee a **REAL PROPERTY QUESTIONNAIRE** (Form UST-5) within seven (7) days after the filing of the Chapter 11 petition.

A separate **QUESTIONNAIRE** shall be filed for each parcel of real property leased or owned, or in the process of being purchased, by the Debtor.

Failure to timely file the **QUESTIONNAIRE** may result in the filing of a motion to convert or dismiss the Chapter 11 case.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 3**  
(February 1989)

**MATTERS REQUIRING SUBMISSION TO UNITED STATES TRUSTEE  
PRIOR TO FILING WITH THE BANKRUPTCY COURT**

Matters dealing with the following topics shall first be submitted to the attorney for the United States Trustee assigned to the case for review and comment. In order to facilitate that process, a separate page should be provided in each written document required to be submitted for review and execution by the United States Trustee in the form set forth in **Guideline No. 4**. Non-inclusion of matters in this **Guideline** does not constitute an opinion by the Office of the United States Trustee that it does not have a right to review or comment on such matters:

1. Applications to extend the time to file Schedules and/or Statement of Affairs.
2. Applications for approval of the employment of professional persons. (These Applications are to be submitted prior to the time employment is to commence. If it is impossible to do so prior to the commencement of services, a request for an appropriate retroactive order is required together with a Declaration showing good cause for such late application. Employment applications with retroactive effective dates are not favored in the Central District. It is understood that there will be some delay between the filing of the petition and filing of the initial application to employ Debtor's general bankruptcy counsel, but that delay should not exceed fourteen (14) days.)

If counsel chooses to seek approval of proposed employment by way of a noticed motion rather than by way of application, the motion need not be submitted to the United States Trustee prior to filing with the Court. Service of a copy in the regular course is sufficient.

3. Stipulations for appointment of a Chapter 11 Trustee or Examiner or any other person or entity to be given possession, control or operation of any of the property of the Debtor outside the ordinary course of business of the Debtor.
4. Such other documents as may from time to time be designated by the United States Trustee or the Court for submission to the United States Trustee for review or comment.
5. NOTE: Stipulations providing for relief from the automatic stay are *not* included among those stipulations requiring United States Trustee comment and approval *prior to filing*.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 4**

*(Revised February 1989)*

**FORM FOR COMMENTS AND EXECUTION BY**  
**OFFICE OF UNITED STATES TRUSTEE**

Each document required to be submitted for review and comment by the Office of the United States Trustee pursuant to Guideline No. 3 shall contain an entirely separate page in the form set forth below. This page should be placed at the end of the document if the proposed order is a separate document, and just before the proposed order if it is included in the same document.

1	<u>COMMENTS OF OFFICE OF UNITED STATES TRUSTEE</u>
2	<input type="checkbox"/> THE U.S. TRUSTEE TAKES NO POSITION.
3	<input type="checkbox"/> THE U.S. TRUSTEE HAS NO OBJECTION.
4	<input type="checkbox"/> THE U.S. TRUSTEE OBJECTS AND REQUESTS A HEARING.
5	<input type="checkbox"/> AN OBJECTION IS RAISED AS SET FORTH BELOW.
6	
7	
8	<u>COMMENTS:</u>
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	Dated: _____, 19 ____
19	OFFICE OF THE U.S. TRUSTEE
20	
21	By: _____
22	Name: _____
23	Attorney for the
24	United States Trustee
25	
26	Case Name: Application to Employ Attorney
27	Case Number: LA-87-12345-XX
28	Type of Document: John Doe Enterprises

OFFICE OF THE UNITED STATES TRUSTEE

GUIDELINE NO. 5

(June 1987)

INTERIM STATEMENTS AND OPERATING REPORTS

Biweekly **INTERIM STATEMENTS** are to be filed within seven (7) days and **MONTHLY OPERATING REPORTS** are to be filed within twenty (20) days after the close of the applicable period. Failure to file timely **REPORTS** and **STATEMENTS** may result in the filing of a motion to convert or dismiss the Chapter 11 case. All blanks in the **STATEMENTS** and **REPORTS** must be filled out completely. If any item is not applicable, so state. Filing of incomplete **STATEMENTS** or **REPORTS** will be treated as if no **STATEMENT** or **REPORT** had been filed.

If an unusual event occurs which will delay filing of any **REPORT** or **STATEMENT**, it is expected that the Debtor in Possession or Chapter 11 Trustee will deliver a letter to the United States Trustee explaining such extraordinary delay. Insufficient explanations may result in the filing of a motion to convert or dismiss.

Unless prior **written** permission has been obtained from the United States Trustee, **INTERIM STATEMENTS** and **OPERATING REPORTS** may not be filed on a more or less frequent basis than that established under this **Guideline**. The United States Trustee reserves the right to vary these reporting requirements as is considered appropriate on a case by case basis.

United States Trustee Forms **UST-3 (INTERIM STATEMENTS)** and **UST-4 (OPERATING REPORTS)**, copies of which are attached to the **NOTICE OF REQUIREMENTS OF THE UNITED STATES TRUSTEE (Form UST-1)**, set forth the actual form upon which **REPORTS** and **STATEMENTS** must be submitted. Written permission must be obtained prior to use of any other form for such **REPORTS** and **STATEMENTS**.

**INTERIM STATEMENTS** are to be prepared *only* on a cash basis and the Profit and Loss Statement contained in the **OPERATING REPORTS** is to be prepared *only* on an accrual basis. For financial analysis purposes, it is crucial for Debtors in Possession and Chapter 11 Trustees to comply with these cash and accrual bases requirements.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 6**  
(February 1989)

**APPLICATIONS TO EMPLOY PROFESSIONAL PERSONS**

An Application to employ a professional person must, at a minimum, comply with BANKRUPTCY RULE 2014 (a), LOCAL RULE 2006 and the following requirements:

1. It must be signed by a person authorized to make the Application such as the Debtor in Possession, the Chapter 11 Trustee, or an officer, general partner or other principal of the Debtor in Possession. It is not acceptable for counsel to sign on behalf of the applicant.
2. It must state facts showing the necessity for such employment.
3. It must state the name of the person or firm to be employed.
4. It must state the reason for the selection of the particular professional to be employed. (Attachment of a statement of the past experience of the professional must be included.) If a Chapter 7 Trustee proposes to retain his or her own firm as counsel, the Application must show specifically why such an appointment is necessary. Ordinarily, appointment of outside counsel is preferable.
5. It must state the specific services to be rendered in connection with the employment.
6. It must set forth by way of verified declaration that, to the best of the professional's knowledge, the professional has no connection to any party in interest to the case and has no interest adverse to the estate of the Debtor. The declaration should not merely state legal conclusions, but should state the professional's connections, if any, to the Debtor, creditors or any other party in interest, including their respective attorneys and accountants. [See BANKRUPTCY RULE 2014] Any potential or actual conflict must be fully disclosed and explained. (Bankruptcy Form 220, *Statement of Disinterestedness under Bankruptcy Rule 2014*, approved for optional use in the District, may be used to fulfill this requirement.)
7. It must state the amount of the retainer previously received and the terms and conditions of employment, including the then current hourly rate(s) charged by each professional expected to render services, including partners, associates, and paraprofessional persons employed by the professional and whose services will be utilized for the benefit of and whose time will be charged to the Estate. The terms of employment may not violate applicable provisions of the BANKRUPTCY CODE. Payment by the Debtor in Possession or Chapter 11 Trustee of professional fees and/or expenses and payment by the Debtor in Possession or Chapter 11 Trustee of a retainer to a professional in monthly post-petition installments cannot be approved without prior application to the Court under § 331 of the BANKRUPTCY CODE.
8. It must include a statement that no compensation will be paid by the Debtor in Possession or Chapter 11 Trustee except upon application to and approval by the Bankruptcy Court after notice and a hearing.
9. It must present sufficient facts to indicate that the proposed professional has attained a sufficient experience level to appropriately render the proposed services.
10. It must provide a separate "Comments" page as provided for in Guideline No. 4.
11. It must include a copy of the proposed Order.

## APPLICATIONS TO EMPLOY PROFESSIONAL PERSONS

12. If an Application to employ a professional by the Debtor in Possession or Chapter 11 Trustee is made more than thirty (30) days after the date of commencement of post-petition services by that professional, an explanation of the delay in the form of a declaration under penalty of perjury must accompany the Application. Unsatisfactory explanations will result in an objection to the Application by the United States Trustee.
13. If an Application to employ a professional by the Debtor in Possession or Chapter 11 Trustee is made more than sixty (60) days after the date of commencement of post-petition services by that professional, the United States Trustee will object unless the Application is made on notice and an opportunity to be heard given to all creditors and interested parties. An explanation of the delay in the form of a declaration under penalty of perjury must accompany the Application. Any Application seeking a retroactive effective date must state the amount of fees and expenses which have accrued during the period between the date of the commencement of post petition services and the date of the Application to Employ. Extraordinary facts must be presented to justify entry of a retroactive order.
14. Applications providing for payment by the Debtor in Possession or Chapter 11 Trustee of a post petition retainer are not acceptable and will be objected to unless a showing of unusual circumstances has been made to the satisfaction of the United States Trustee. In any event, such Applications must be made upon notice with an opportunity to request a hearing.
15. If more than one counsel is being retained to represent the Debtor in Possession, the Chapter 11 Trustee or the Creditors' Committee, there should be some statement in the Application as to the need for dual counsel, the services to be performed by each, and an affirmative statement in each Application that there will be no duplication of services. A separate Application is required for each professional.

**SPECIAL NOTES:**

1. Refer to **Guideline No. 7 (Applications for Payment of Professional Fees)** for further details as to items in Fee/Expense Applications which are considered appropriate and inappropriate by the United States Trustee.
2. Applications to Employ will be processed by the United States Trustee in the regular course of business unless there is a demonstrated emergency. In an emergency case, counsel is to telephone the Attorney for the United States Trustee assigned to the case and set up an appointment to hand-deliver the Application for review and comment. The Staff Attorney so assigned will determine if expedited processing is appropriate.
3. No fees or reimbursement of costs can be paid by the Debtor in Possession or Chapter 11 Trustee to a professional person until the request for such fees and costs has been reviewed and allowed by the Bankruptcy Court after notice. Any Application must conform to the requirements of BANKRUPTCY RULE 2016(a).
4. Professionals who have received a pre-petition retainer and professionals who have entered into a contingency fee arrangement with the Debtor are required to file statements pursuant to § 329(a) of the BANKRUPTCY CODE, and such payments and agreements are subject to review by the Bankruptcy Court pursuant to § 329(b) of the BANKRUPTCY CODE. (Note: Rules of professional ethics and bankruptcy court decisions limit the use of contingency fee arrangements in certain circumstances.)

**GUIDELINE NO. 6**

*(Revised February 1989)*

PAGE 3

APPLICATIONS TO EMPLOY PROFESSIONAL PERSONS

---

5. When the Debtor in Possession or Chapter 11 Trustee have made an application to employ a professional person, any successor professional must obtain similar court authorization for such employment pursuant to § 327 of the BANKRUPTCY CODE and BANKRUPTCY RULE 2014. The Application to Employ must be submitted and approved prior to the successor professional commencing services on behalf of the Debtor in Possession or Chapter 11 Trustee. When there is a change in attorney, the filing of a Substitution of Attorney form is also required.
6. The term *nunc pro tunc* has been erroneously applied to orders which have a retroactive effective date, but where no actual order had been approved at a prior time by the court. In addition, no court or clerk error was involved. Thus, use of the term *nunc pro tunc* in Employment Applications seeking approval of employment as of a prior date is discouraged. Such Applications should specify that a "retroactive" order is sought. Retroactive orders are extraordinary and a strong showing is required to justify their approval.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 7**

(February 1989)

**APPLICATIONS FOR PAYMENT OF  
PROFESSIONAL FEES AND EXPENSES**

Applications for payment of professional fees and expenses shall conform with the following substantive requirements. Failure to fulfill such requirements may result in an objection by the Office of the United States Trustee to such fee and/or expense payment application.

1. The Application shall recite the date of entry of the Order of the Bankruptcy Court approving the employment of the individual or firm for whom payment of fees and/or expenses is sought and the date of the last Fee Application for that professional.
2. The Application shall include a listing of the amount of fees and expenses previously requested approved by the Court and received.
3. The Application shall include a detailed listing of all time spent by the professional on matters for which compensation is sought, including the following:
  - A. Date service was rendered
  - B. Description of service -- (It is not sufficient to merely state "Research", "Telephone Call", "Court Appearance", etc. Reference must be made to the particular persons, motions, discrete tasks performed and other subject matters related to such service. Summaries that list a number of services under only one time period will not be satisfactory.)
  - C. Amount of time spent -- (Summaries are not adequate. Time spent is to be broken down in detail by the specific task performed. Lumping services together is not satisfactory)
  - D. Designation of the particular person who rendered the service -- (If more than one person's services are included in the Application, specify which person performed each item of service)
4. An Application that seeks reimbursement of expenses shall include a summary listing of all expenses by category (i.e., long distance telephone, copy costs, messenger and computer research). As to unusual or costly expense items, as to each such item, the Application must state:
  - A. Date the expense was incurred
  - B. Description of the expense
  - C. Amount of the expense
  - D. Explanation of need for the expense
5. The Application shall contain a listing of the hourly rates charged by each person whose services form a basis for the fees requested in the Application. The Application must contain a Summary in substantially the following form:

<u>Attorney Name</u>	<u>Hourly Rate</u>	<u>Total Hours this Application</u>	<u>Total Fee Due</u>
----------------------	--------------------	-------------------------------------	----------------------

**GUIDELINE NO. 7**

(February 1989)

**PAGE 2**

**APPLICATIONS FOR PAYMENT OF PROFESSIONAL FEES AND EXPENSES**

---

6. The burden of proof in all Fee Applications is on the Applicant. The Application must contain sufficient evidence to justify the charges made by specifically detailing the services rendered and the tasks performed.
7. The following items are considered inappropriate for Fee and/or Expense Applications. Any Application containing such items will be objected to automatically by the United States Trustee:
  - A. Minimum hourly billing increments of greater than 0.10 hours (effective 7/1/87).
  - B. Compensation sought for services rendered prior to the effective date of the Order approving employment of the professional. (This does not apply to pre-petition services rendered by Bankruptcy counsel in preparing the case for filing or services rendered during the maximum fourteen (14) day delay between the filing of the petition and the filing of the application to employ Debtor's general bankruptcy counsel.)
  - C. Compensation sought from the estate for services rendered prior to the date of the filing of the Petition except for bankruptcy-related services.
  - D. Requests for a bonus unless supported by a declaration setting forth facts sufficient to warrant a bonus.
  - E. Requests for compensation for services performed by an attorney employed by a trustee if for matters properly within the responsibility of the trustee.
  - F. An attorney/trustee failing to segregate properly those services performed as an "attorney" versus those performed in the capacity of "trustee."
  - G. Requests for compensation for services rendered which were unnecessary, unreasonable, or in error.
  - H. Requests for reimbursement of overhead expenses such as secretarial and word processing costs. (Reimbursement of reasonable Westlaw and Lexis costs is acceptable.)
  - I. Requests for reimbursement of expenses not yet incurred.
  - J. Photocopy charges in excess of the actual cost or twenty-five (25) cents per page, whichever is less.
  - K. Failure to give adequate written notice of the Fee and/or Expense Application.
  - L. Filing of a Fee and/or Expense Application more frequently than once every 120 days without a prior Bankruptcy Court Order allowing more frequent applications.
  - M. Requests for compensation at the full rate of the professional for performing non-professional services such as document delivery or filing of pleadings.
  - N. Charging current hourly rates for services performed at a time when the professional charged a lesser rate, if the professional reasonably should have applied for, and would likely have been paid, interim compensation under § 331 of the BANKRUPTCY CODE.

APPLICATIONS FOR PAYMENT OF PROFESSIONAL FEES AND EXPENSES

---

- O. Submitting Fee Applications at a time when the Debtor in Possession or Chapter 11 Trustee have failed to pay Quarterly Fees or have failed to file timely Operating Reports or Interim Statements or where other administrative expenses have not been paid in a timely manner.
- P. Interim Fee requests seeking 100% of requested compensation. The United States Trustee generally requests a hold back of an appropriate percentage on the award of interim compensation, but 100% of expenses are ordinarily allowable on an interim basis.
- 8. **Special Note regarding Required Final Fee Applications:** Where a reorganization plan has been confirmed, Final Fee Applications under § 330 of the BANKRUPTCY CODE are required as to all professionals who have been employed to perform services on behalf of the Debtor in Possession, Chapter 11 Trustee or at the expense of the estate. The Final Fee Application is to cover all of the services performed in the case and must seek approval of all prior interim fee awards. The Application may not merely cover the last period for which fees are sought.
- 9. See *In re Yermakov*, 718 F.2d 1465 (9th Cir. 1983) regarding Applications for payment of professional fees and expenses.
- 10. Normally, professional persons may apply to the Bankruptcy Court for payment of fees and expenses not more often than once every 120 days after the filing of the Petition, except when the Court permits Applications to be filed more frequently. The United States Trustee will oppose a request to permit Applications to be filed more often than once every 120 days in all but unusual cases. Any request for more frequent compensation must be justified and must be made by way of motion with notice and an opportunity to request a hearing.
- 11. If the Court permits professional persons to file Fee Applications more often than once every 120 days, then such short-term Applications must contain the detailed information specified in Guideline No. 7 (Applications for Payment of Professional Fees).
- 12. The Bankruptcy Court can limit notice on Fee Applications. The United States Trustee will oppose requests to limit notice to less than ten (10) days or notice which does not include at least the United States Trustee, any committees, any secured creditors claiming cash as collateral, and any parties who have requested special notice.
- 13. Within a reasonable time after confirmation of a plan of reorganization, professionals who have received a pre-petition retainer from the Debtor and professionals who have entered into a contingency fee arrangement with the Debtor are required to file Fee Applications.
- 14. Many judges find extremely helpful a narrative summary of major events in the case during the period covered by the Fee Application, as well as a description of major achievements resulting from the efforts of the professional in question.

OFFICE OF THE UNITED STATES TRUSTEE

GUIDELINE NO. 8

(February 1989)

APPLICATIONS TO USE, SELL OR LEASE PROPERTY OF THE  
ESTATE OUTSIDE THE ORDINARY COURSE OF BUSINESS

At a minimum, the Application must meet the following requirements:

1. It may only be filed by the Debtor in Possession or, if a Chapter 11 trustee has been appointed, only by that trustee. It is not acceptable for the Debtor to file the Application when a Chapter 11 trustee has been appointed in the case.
2. It must sufficiently identify the property of the estate which is the subject of the Application.
3. It must identify the proposed disposition of the property, including the proposed use or distribution of the sale proceeds. This requires full disclosure of all consideration to be received as part of the transaction by the estate or any other party to the transaction. Disclosure must include any contingent or concurrent transactions tied to the property transaction. Disclosure must include the name of the prospective buyer and amount proposed to be paid to any person and/or entity from the proceeds of the sale.
4. It must identify the holder of any lien on the property, including any tax liens, and the amount of each such lien.
5. It must provide parties in interest with at least twenty (20) days after service of the notice of the Application in which to request a hearing. If less time is provided, an appropriate order shortening time for notice must accompany the Application stating good cause for the shortening of time.
6. BANKRUPTCY RULE 6004(e)(1) must be complied with as to the each sale of property by the Debtor.
7. If a proposed sale will utilize an escrow, the following requirements must also be met:
  - A. The Application must state the anticipated closing date; and
  - B. A certified copy of the Escrow Closing Statement must be submitted to the United States Trustee within ten (10) days after the close of escrow. (The Closing Statement must include the name, address and telephone number of the escrow agent.)
8. The originals of these Applications are not to be submitted to the United States Trustee for review or comment prior to filing with the Bankruptcy Court. Counsel is merely required to serve a copy of the Application upon the United States Trustee.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 9**

*(February 1989)*

**EX PARTE APPLICATIONS**  
**(ORDERS SOUGHT WITHOUT A HEARING)**

It is not unusual for circumstances to arise in bankruptcy cases which require immediate action without providing for full notice and an opportunity to be heard. Since Ex Parte Applications do not provide for a regular notice procedure, their use should be restricted to situations in which a true emergency exists.

At a minimum, every Ex Parte Application must meet the requirements set forth in the BANKRUPTCY CODE, the BANKRUPTCY RULES and the LOCAL BANKRUPTCY RULES.

The originals of these Applications are not to be submitted to the United States Trustee for review or comment prior to filing with the Bankruptcy Court. Counsel is merely required to serve a copy of the Application upon the United States Trustee and give timely notice of such Application in accordance with LOCAL BANKRUPTCY RULES.

If the Ex Parte Application is one related to the incurring of debt or obtaining of financing, including use of cash collateral, the Application must:

- A. Set forth sufficient facts to indicate that no other source of funds is available to finance the Debtor's in Possession or Chapter 11 Trustee's operation until full notice and an opportunity for a hearing can be given; and
- B. Provide only for the necessary financing to fund the Debtor's in Possession or Chapter 11 Trustee's operation until notice and an opportunity for a hearing for further financing are provided. Applications for long-term financing are not to be made on an ex parte basis.
- C. List all liens on the subject property, including the name of the lienholder, the amount of the claimed lien (whether disputed or not), and the proposed treatment of the lien.

OFFICE OF THE UNITED STATES TRUSTEE

GUIDELINE NO. 10

(June 1987)

CHAPTER 11 QUARTERLY FEE PAYMENTS

On October 27, 1986, the President signed into law the BANKRUPTCY JUDGES, UNITED STATES TRUSTEES, AND FAMILY FARMER BANKRUPTCY ACT OF 1986, PUB. L. NO. 99-554, which became effective November 26, 1986, in the United States Bankruptcy Court for the Central District of California.

Section 117 of the ACT imposes a new responsibility upon Debtors in Possession and Chapter 11 Trustees under Chapter 11 of the BANKRUPTCY CODE. That section requires that a quarterly fee be paid in all Chapter 11 cases. The fee applies to all Chapter 11 cases on November 26, 1986, unless a plan was confirmed or the case was dismissed or converted before that date. The fee must be paid to the United States Trustee every calendar quarter from the time the Petition is filed until the date of entry of an order confirming a plan or an order dismissing or converting the case.

The Chapter 11 Debtor in Possession and Chapter 11 Trustee are responsible for paying this fee. The amount of the fee varies depending on the disbursements made during the calendar quarter; however, a minimum fee of \$150 is due each quarter even if no disbursements are made during the quarter.

Fee payments are due no later than one (1) month following the quarterly reporting period. In order for a plan to be confirmed in the case, the plan must provide that payment of quarterly fees will be made on or before the effective date of the plan.

FEE SCHEDULE

TOTAL QUARTERLY DISBURSEMENTS			QUARTERLY FEE
\$ 0	to	\$ 14,999.99	\$ 150
15,000	to	149,999.99	300
150,000	to	299,999.99	750
300,000	to	2,999,999.99	2,250
3,000,000		and above	3,000

Failure to pay the quarterly fee is cause for conversion or dismissal of the Chapter 11 case. [§ 1112(b)(10) of the BANKRUPTCY CODE] All unpaid fees must have been paid in full as of the effective date of the Plan of Reorganization. [§ 1129(a)(12) of the BANKRUPTCY CODE]

Requests for voluntary dismissals or conversions will be objected to unless all fees have been paid in full. If a Debtor in Possession or Chapter 11 Trustee have failed to provide reports that substantiate disbursements during the applicable quarter, the United States Trustee will require payment of the maximum fee for each unpaid quarter.

Quarterly fees are to be made payable to THE UNITED STATES TRUSTEES and are to be mailed to the address in Georgia set forth below. Fees are not to be mailed or delivered to the local Office of the United States Trustee. If any check is returned "unpaid" for any reason, all subsequent payments must be made by way of cashier's check, certified check or money order.

To ensure proper credit, it is imperative that Debtors in Possession and Chapter 11 Trustees write the case Account Number on each check and return it with the Payment Coupon provided with the quarterly billings. A separate check and coupon are required for each quarterly payment even if more than one quarterly fee is paid at the same time.

Send all payments to:

UNITED STATES TRUSTEES  
P.O. Box 198246  
Atlanta, GA 30384

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 11**

*(June 1987)*

**RESTRICTION AGAINST NAMING OF U.S. TRUSTEE  
OR MEMBERS OF HIS OFFICE AS PARTIES TO LITIGATION**

The United States Trustee has the duty to supervise the administration of cases and trustees in cases under Chapters 7, 11, 12, and 13 of the BANKRUPTCY CODE. [See 28 U.S.C. § 586.]

The United States Trustee may raise and may appear and be heard on any issue in any case or proceeding under Title 11, United States Code. [See 11 U.S.C. § 307.] Copies of all papers filed with the Bankruptcy Court in this District are to be served upon the United States Trustee.

Due to a misunderstanding of the role of the United States Trustee, it is not uncommon for the United States Trustee or members of his office to be named as parties Defendant in various pleadings.

Neither the United States Trustee nor any member of his office is to be named as a "party" in any pleading filed in any court where the United States Trustee is not an actual party to the proceeding. The United States Trustee is to be added as an additional person with whom a copy of the pleading is to be filed and must be included in the Proof of Service form attached to all filed pleadings.

Naming the United States Trustee or any member of his office as a party Defendant may result in the filing of a motion to dismiss such improperly named person if counsel fails to correct such error upon request by the United States Trustee. Repeated refusal to follow this Guideline will result in the seeking of a court order to halt such abuse and for imposition of sanctions.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 12**  
*(June 1987)*

**SUBSTITUTION OF DEBTOR'S ATTORNEY IN CHAPTER 11 CASES**

Whenever there is a substitution of Debtor's in Possession or Chapter 11 Trustee's counsel in a Chapter 11 case, withdrawing counsel shall file a final Fee and Expense Application within sixty (60) days after the date provided in the order allowing withdrawal of representation.

Failure to file a timely Fee and Expense Application will result in the filing of a motion by the United States Trustee which will seek an accounting and return of any pre-petition retainer or post-petition fees paid to withdrawing counsel.

New counsel must obtain court authorization for employment pursuant to § 327 of the BANKRUPTCY CODE and BANKRUPTCY RULE 2014. The Application to Employ must be submitted and approved prior to the successor counsel commencing services on behalf of the Debtor in Possession or Chapter 11 Trustee. (See Guideline No. 6.)

OFFICE OF THE UNITED STATES TRUSTEE

GUIDELINE NO. 13  
(June 1987)

DEBTOR IN POSSESSION BANK ACCOUNTS

Debtors in Possession and Chapter 11 Trustees are required to open and maintain a minimum of three (3) Debtor in Possession or Chapter 11 Trustee bank accounts in a depository designated by the Bankruptcy Court. The three (3) required accounts are the General Account, Payroll Account and Tax Account. Instructions and a list of Court approved banking institutions are contained in the **NOTICE OF REQUIREMENTS OF THE UNITED STATES TRUSTEE FOR DEBTORS IN POSSESSION IN CHAPTER 11 CASES** (Form UST-1).

Debtors in Possession and Chapter 11 Trustees are not permitted to vary from this established procedure unless prior written permission has been obtained from the United States Trustee. If a change is sought due to different circumstances in a particular case, the Debtor in Possession or Chapter 11 Trustee must submit a written request for a modification which must contain a showing of sufficient facts warranting the modification.

Checks are to be pre-numbered by the bank and should include the Case Name, Case Number, the words "Debtor in Possession" and the type of account (General, Payroll or Tax), in substantially the following form:

		No. 4546
Ace Machine Shop Debtor-in-Possession, LA-86-28432-NP GENERAL ACCOUNT 1234 Market Street Los Angeles, California 90071		_____, 19____
Pay to the Order of		\$ _____ Dollars
		_____ _____ _____

OFFICE OF THE UNITED STATES TRUSTEE

GUIDELINE NO. 14  
(June 1987)

REQUESTS FOR FIXING OF BAR DATES FOR  
FILING OF CHAPTER 11 PROOFS OF CLAIM

The United States Trustee will object to any Application seeking the fixing of a bar date for the filing of proofs of pre-petition claims within the first 120 days after the filing of a Chapter 11 Petition.

The United States Trustee will also object to any Application seeking to give less than ninety (90) days' written notice of the bar date to all creditors and other interested persons.

Notwithstanding the foregoing, if unusual circumstances require the fixing of a bar date within the first 120 days or with less than ninety (90) days notice, a Declaration must accompany the Application specifying sufficient facts to warrant variance from the requirements set forth in this Guideline.

The originals of these Applications are not to be submitted to the United States Trustee for review or comment prior to filing with the Bankruptcy Court. Counsel is merely required to serve a copy of the Application upon the United States Trustee.

OFFICE OF THE UNITED STATES TRUSTEE

GUIDELINE NO. 15

(June 1987)

SPECIAL AREAS OF INTEREST TO THE OFFICE OF  
THE U.S. TRUSTEE IN CHAPTER 11 CASES

Although the United States Trustee is concerned with all aspects of Chapter 11 cases, the public interest requires that it take a deeper interest in certain matters. These matters are set forth below. Failure to comply with United States Trustee requirements in these areas may result in an action to dismiss or convert the case or for appointment of a trustee or examiner.

1. Payment in full of all administrative priority State and Federal Income, Employment, and other taxes that accrue after the date of the filing of the Petition.
2. Payment in full of all administrative priority wages and other employee-related payments that accrue after the date of the filing of the Petition.
3. Maintenance and proof of all necessary insurance, including sufficient general liability, property, theft, vehicle, product liability, worker's compensation insurance, and all other types of insurance customary in the Debtor's business.
4. Compliance with the BANKRUPTCY CODE, LOCAL RULES OF COURT, and general requirements of the Office of the United States Trustee as set forth in the NOTICE OF REQUIREMENTS (Form UST-1) including, but not limited to, the following:
  - A. Timely filing of Schedules and Statement of Affairs;
  - B. Attendance at the U.S. Trustee's Creditors' Conference;
  - C. Attendance at 341(a) Meetings of Creditors;
  - D. Filing of periodic reports per LOCAL RULES and the Requirements of the United States Trustee; and
  - E. Payment of post-petition administrative obligations as they become due when properly perfected under § 503 of the BANKRUPTCY CODE.
5. Operation of the business of the Debtor at a level sufficient to pay expenses of administration without an operating loss.
6. Operation of the business of the Debtor without risk to the public.
7. Operation of the business of the Debtor at a sufficient level of profitability to demonstrate that reorganization is feasible.
8. Such other activities or conduct by the Debtor in Possession which, in the opinion of the United States Trustee, warrant close scrutiny.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 16**  
(February 1989)

**DISCLOSURE STATEMENTS**

The following is a checklist of items that the United States Trustee believes should generally appear in Disclosure Statements. The list is neither exclusive nor exhaustive and, depending upon the size and nature of the Debtor and the Plan, may vary considerably. However, it may serve as a useful guide.

Whether or not a Disclosure Statement contains adequate information is not governed by any otherwise applicable non-bankruptcy statute, rule or regulation. [See 11 U.S.C. § 1125(d).] Since the enactment of the BANKRUPTCY CODE, Bankruptcy Judges in this District have generally looked to the comments of the United States Trustee and creditors as advisory input in determining whether or not a Disclosure Statement contains adequate information.

1. **Purpose of the Disclosure Statement:** The Disclosure Statement should indicate that its purpose is to provide "adequate information" of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the Debtor and the condition of the Debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims (creditors) or interests (shareholders) of the relevant class to make an informed judgment concerning the Plan. [See 11 U.S.C. § 1125(a).] The Statement should not resort to "boilerplate" language found in *Colliers* that disclaims all of the assumptions and dollar amounts contained in the Disclosure Statement. Such a disclaimer is not only confusing, but makes the Statement somewhat meaningless.
2. **Vote Required for Approval:** The Disclosure Statement should briefly indicate the vote required for approval of the Plan and should clearly indicate that creditors or interest holders have a choice: They can either vote for or against the Plan. It should also state that creditors have accepted the Plan if voting creditors holding at least two-thirds in amount and more than one-half in number of the allowed claims voting, have voted for the Plan. [See 11 U.S.C. § 1126(c).] The Disclosure Statement should also state that a class of interests have accepted the Plan if voting members of that class holding at least two-thirds in amount of the allowed interests voting, have voted for the Plan. [See 11 U.S.C. § 1126(d).]
3. **Description of the Plan:** The Disclosure Statement should give a description of the major provisions of the Plan, including, where feasible, an estimated date by which creditors could expect to receive payment, an expected percentage return on their claims, the present value of any pay out to unsecured creditors on an extended basis, and a summary of the treatment of various classes under the Plan. Generally, the description does not have to be detailed and may merely refer to the Plan which contains such detailed information. Further, the summary should contain a description of each class of creditors and the approximate dollar amount of the claims in each class.
4. **Means of Effectuating the Plan:** The Disclosure Statement should indicate how the Debtor intends to accomplish the goals of the Plan, i.e., whether by infusion of cash by an investor, sale of real or personal property, continued business operations, issuance of stock or otherwise. If an investor is to provide funds, financial information regarding the investor's ability to provide such funds should be included.
5. **Cash Requirements:** The Disclosure Statement should indicate the amount of cash to be paid upon confirmation of the Plan and the expected source of such cash. If the Debtor expects a cash infusion from an outside source or from principals which is to be repaid in the future, then the identity of the source as well as the repayment terms should be disclosed. Similarly, the effect of such infusions (i.e., principal and interest payments) should be reflected in the projections.

## DISCLOSURE STATEMENTS

Furthermore, since the BANKRUPTCY CODE contemplates payment of administrative claims in cash upon confirmation, any waiver by administrative claim holders of this requirement should be disclosed.

6. **Administrative Expenses:** The Disclosure Statement should indicate whether any administrative expenses have accrued which must be paid at the time of confirmation, unless the party to whom the expenses are owed has consented to an alternative treatment. [See 11 U.S.C. § 1129(a)(9)(A).] Such disclosure should include the expected amounts owed, the identity of the claimants, and the source of the funds from which they will be paid upon confirmation.
7. **Legal Proceedings:** The Disclosure Statement should briefly describe all material legal proceedings to which the Debtor is a party, proceedings which the Debtor contemplates instituting, and legal proceedings which are known to be threatened against the Debtor. The information should include the court in which the litigation is pending, its present status, the relief sought, the Debtor's prognosis for the outcome, if appropriate, and the effect, if any, on the Plan.
8. **Description of the Business:** The Statement should describe the Debtor's business, including those factors which may be unusual or peculiar to the business, such as seasonal cycles and unique product lines.
9. **Reasons for Financial Difficulties and Corrections of those Factors:** The Disclosure Statement should contain a brief narrative description of the reasons for the Debtor's financial difficulties and the steps taken to alleviate the situation since the inception of the case.
10. **Valuation of Assets:** In conjunction with any projections or any liquidation analysis, the Disclosure Statement should contain a current Balance Sheet and Profit and Loss Statement. The Balance Sheet should indicate whether or not such Statement was audited and the basis for the valuation of indicated items. Further, the Disclosure Statement should indicate, possibly in a separate schedule, the Debtor's estimate of current values of assets and the source of such estimated values (i.e., cost or appraisals). Valuations must be made on a *fair market* basis, not on book value or some other basis.
11. **Historical and Current Financial Information:** The Disclosure Statement should include historical financial data such as Cash Flow Statements, Profit and Loss Statements, and Balance Sheets to give creditors some perspective on both the Debtor's current financial situation and its prospects under the Plan. Of equal importance is post-petition financial data including a pro forma Balance Sheet as of the date that the plan will be confirmed indicating the financial condition of the reorganized Debtor. Use of spreadsheets is encouraged. In order to allow full analysis, financial information must be provided on both a *cash* and *accrual* basis.
12. **Liquidation Analysis:** A creditor cannot make an informed judgment regarding a Plan without information as to available alternatives. Consequently, there should be some analysis as to what creditors would receive in a Chapter 7 liquidation. The Disclosure Statement should clearly indicate the difference between treatment accorded in the Plan and that which creditors would receive under a Chapter 7 liquidation. Such a comparison might indicate the percentage return to creditors under each alternative and might include assumptions regarding liquidation values, administrative costs, etc. A disclosure of any assumptions utilized by management in formulating a liquidation alternative should be disclosed. [See 11 U.S.C. § 1129(a)(7)(A)(ii).] It is generally insufficient to merely indicate that the Plan will provide a better return than liquidation without any supporting information. A simple tabular presentation setting forth estimated administrative expenses, priority expenses, secured and unsecured claims, together with the Debtor's estimated asset values (including sources of such values) is appropriate. The liquidation analysis should also provide a present value calculation of the payments to creditors under the proposed Plan versus its respective class liquidation amount.

**GUIDELINE NO. 16**

(Revised February 1989)

## DISCLOSURE STATEMENTS

13. **Projections:** Projections are critical to a creditor's ability to assess the viability of the Plan, especially where the Plan calls for deferred payments to creditors and is based upon future earnings. The Statement should include projections as far into the future as is practicable, including assumptions used by the Debtor in formulating the projections, such as expected sales levels, gross and net profit levels, and inventory acquisition. At a minimum, the period covered by the projections should be commensurate with the period of payment deferral under the Plan. Use of spreadsheets is encouraged. Financial projections must be provided on both a *cash* and *accrual* basis.
14. **Marketing Efforts:** The Statement should indicate what efforts the Debtor has made since the filing to market its properties that are currently for sale. Such a description should include the identity of the listing agent, the listing price, any offers received or anticipated, pending litigation which might affect the sale of the property, the equity in the property (including the source of the valuation), and any alternatives for marketing the property in the future.
15. **Post-Petition Events:** The Disclosure Statement should indicate whether any major post-petition events have occurred which might affect the case, such as the appointment of a Creditors' Committee, a trustee, an examiner or the existence of litigation with significant consequences to the ability of the Debtor to meet the Plan requirements.
16. **Management Compensation:** The Statement should disclose the identities of top management, a description of their qualifications, and their salary levels. [See 11 U.S.C. § 1129(a)(5).] Further, any disclosure should include the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director, officer or voting trustee of the Debtor, an affiliate of the Debtor participating in a joint Plan with the Debtor, or a successor to the Debtor under the Plan, and the identity of any insider who will be employed or retained by the reorganized Debtor and the nature of any compensation for such insider.
17. **Insider and Affiliate Claims:** The Statement should disclose the claims asserted by insiders as defined by 11 U.S.C. § 101(30). This disclosure should include the identity of the claimant, the affiliation of the insider with the Debtor, the circumstances giving rise to the claim and the amount of the claim, the amount of any claims the insider is asserting as a creditor and/or whether any or all of his claims have been subordinated.
18. **Stock Issued for Debt.** If the Debtor plans to issue stock for all or part of its debt, the Statement should indicate if such stock is exempt from securities laws under 11 U.S.C. § 1145 and should describe the nature of the stock or securities, such as voting rights, interest rate, cummulation of dividends, liquidation preference, potential markets and market values after confirmation, and the existence of other classes of stock. The Debtor should state whether stock is registered under § 5 of the S.E.C. Act or, if not, what exemption from registration is claimed and the basis for such claim.

Further, if the exemption of 11 U.S.C. § 1145 is relied upon, then the Disclosure Statement should indicate, as required by LOCAL RULE 914, that the following legend, with appropriate changes, will be included on any issued securities:

*"The securities represented by this certificate have not been registered under the Securities Act of 1933 and were issued pursuant to an exemption provided by 11 U.S.C. § 1145, under an order confirming Plan in a case entitled \_\_\_\_\_, Debtor, Case No.\_\_\_\_\_, in the United States Bankruptcy Court for the Central District of California. The holder of this certificate is referred to 11 U.S.C. § 1145(b) and (c) for guidance as to the sale of these securities."*

19. **U.S. Trustee Quarterly Fees.** The Plan should state that any unpaid U.S. Trustee Quarterly Fees will be paid in full prior to or on the effective date of the Plan. In this regard, Bankruptcy Code § 1129(a)(2) provides that a Plan may not be confirmed unless all fees payable by the Debtor under § 1930 have been so paid. In addition, the status of Debtor's Quarterly Fee payments must be affirmatively addressed in the financial information provided as part of the Disclosure Statement.

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 17**

(Revised February 1989)

**CHAPTER 11 TIMETABLE AND CHECKLIST**

At each designated point in time, the following documents are to be provided or the following tasks are to be performed. Counsel should review the current United States Trustee Notice of Requirements (Form UST-1) and these Guidelines for more detailed procedural and substantive information.

**1. Simultaneously with Filing of Petition**

- A. Documents to be filed with Clerk of Bankruptcy Court (Check current requirements)
- B. Tasks to be performed:
  - (1) Take physical inventory as of date of filing
  - (2) Close all pre-petition bank accounts and books and records
  - (3) Change loss payee/beneficiary of all insurance policies to "\_\_\_\_\_, Debtor in Possession"
  - (4) Prepare applications to employ professional persons, including Debtor's in Possession or Chapter 11 Trustee's general bankruptcy counsel. (Must be filed no more than fourteen (14) days after the commencement of post petition services.)

**2. Immediately after Filing**

- A. Tasks to be performed:
  - (1) Record copy of bankruptcy petition at offices of appropriate county recorder for each parcel of real property owned by the Debtor
  - (2) Open a minimum of three (3) new Debtor in Possession bank accounts (General, Payroll and Tax Accounts)

**3. Within Seven (7) days after Filing**

- A. Documents to be filed with the United States Trustee (use *Initial Filing Cover Sheet*):
  - (1) *Real Property Questionnaire* (Form UST-5) for each parcel of real property leased or owned, or in the process of being purchased, by the Debtor
  - (2) Proof of appropriate insurance coverage
  - (3) Copies of most recently filed state and federal payroll and state sales tax returns
  - (4) Copies of most recently prepared audited and unaudited financial statements
  - (5) Proof of establishment of minimum of three (3) new Debtor in Possession bank accounts
  - (6) Declaration verifying the closing of all pre-petition bank accounts and transferring of all funds to new "Debtor in Possession" bank accounts
  - (7) Projected Operating Statement for first thirty (30) days of operation by the Debtor in Possession or Chapter 11 Trustee
  - (8) Local Rule 141 Applications to compensate principals, partners, officers or directors
  - (9) Copies of trust agreements or conveyances to which Debtor is a party or under which Debtor holds, has possession of, or operates any property or business as a trustee or otherwise

**4. Within Fourteen (14) days after Filing**

- A. Documents to be filed with the United States Trustee:
  - (1) Applications by the Debtor in Possession or Chapter 11 Trustee to employ counsel and other professionals

**5. Within Twenty-One (21) days after Filing**

- A. Tasks to be performed:
  - (1) Prepare and submit to the United States Trustee *Interim Statement Number 1* covering the first two (2) weeks of post-petition operations. (These recaps are due seven (7) days after the close of every two (2) week period throughout the pendency of the Chapter 11 proceeding.)

## CHAPTER 11 TIMETABLE AND CHECKLIST

---

6. At the Creditors' Conference or within Thirty (30) days after Filing  
(Whichever occurs first)
  - A. Documents to be filed with the United States Trustee:
    - (1) Copies of final statements of closed pre-petition bank accounts
    - (2) Conformed copies of Chapter 11 petition evidencing recording of same on each parcel of real property owned by the Debtor
    - (3) Copies of declaration pages from insurance policies showing loss payee/beneficiary to be "\_\_\_\_\_, Debtor in Possession"
    - (4) Copies of signature cards evidencing opening of "Debtor in Possession" bank accounts
    - (5) Physical inventory as of date of filing of the petition
7. Within Fifty (50) days after Filing
  - A. Documents to be filed with the United States Trustee:
    - (1) *Operating Report Number 1* covering the first thirty (30) days of post-petition operations. (These statements are due twenty (20) days after every thirty (30) day period of operation throughout the pendency of the Chapter 11 proceeding.)
8. On a continuing basis:
  - A. Documents to be filed with the United States Trustee:
    - (1) Local Rule 141 Applications regarding salaries for any new officers, directors, partners, or principals, or for any change in the nature of compensation to such persons
    - (2) Copies of quarterly state and federal payroll tax and state sales tax returns when filed
    - (3) Copies of any and all documents filed with the Bankruptcy Court
  - B. Tasks to be performed:
    - (1) Prepare and submit to the United States Trustee *Interim Statements* for each two (2) week period and *Operating Reports* for each thirty (30) day period of operation throughout the pendency of the Chapter 11 proceeding. These documents are due seven (7) days and twenty (20) days, respectively, after the close of the applicable reporting period.
    - (2) Submit proof of current insurance coverage as to all types of insurance appropriate to the activities of the Debtor in the form of declaration pages. (As each policy of insurance expires, a new declaration page must be submitted indicating that insurance has been obtained to replace the expired policy.)

OFFICE OF THE UNITED STATES TRUSTEE

**GUIDELINE NO. 18**

*(Revised May 1988)*

**PRE-PETITION PAYMENTS TO PROFESSIONALS  
AND FILING OF MONTHLY POST-PETITION  
PROFESSIONAL FEE STATEMENTS**

Where a professional has received pre-petition payments, the professional shall file a Professional Fee Statement (Form UST-6) on a monthly basis as set forth herein. The Professional Fee Statement shall be filed with the Office of the United States Trustee and a copy shall be served upon the Creditors' Committee and upon all parties who have requested special notice. If no committee has been appointed, the twenty (20) largest unsecured creditors shall be served with a copy of the Professional Fee Statement. For service purposes, the list of twenty (20) largest unsecured creditors filed by the Debtor with the Petition (together with any amendments or corrections thereto) may be relied upon as accurately listing such creditors and their addresses. *Neither the original nor any copy of the Professional Fee Statement is to be filed with the Bankruptcy Court.*

The Professional Fee Statement shall disclose the total amount of pre-petition payments received during the year prior to the date of the filing of the Petition, the total amount of the pre-petition services rendered and expenses incurred during such year, and the balance of the funds remaining for post-petition services as of the date of the filing of the Petition. In addition, each Statement shall disclose the total amount of post-petition services rendered during the applicable reporting period and the balance of the pre-petition funds remaining for services to be rendered during the next reporting period.

The original of the Professional Fee Statement filed with the United States Trustee shall have attached to it sufficient supporting time and expense documentation to justify the fees earned and expenses incurred during the post-petition reporting period. (See Paragraphs 3, 4, 5, and 7 of Guideline No. 7 for the specific detail required in such post-petition listings, for the format to be utilized and for a list of items deemed inappropriate.)

Supporting documentation is not required to be attached to the Professional Fee Statement as to the portion of the pre-petition payments against which services were rendered or expenses were incurred prior to the filing of the Petition. The United States Trustee, however, reserves the right to require the production of supporting documentation as to pre-petition services and/or expenses as he deems appropriate on a case-by-case basis.

The copies of the Statement served upon the Creditors' Committee, to requested special notice and the twenty (20) largest unsecured creditors, contain a copy of the supporting documentation. Only the original filed with the United States Trustee must contain the required supporting documentation.

PRE-PETITION PAYMENTS TO PROFESSIONALS AND FILING OF MONTHLY  
POST-PETITION PROFESSIONAL FEE STATEMENTS

---

Professional Fee Statements shall be filed as follows:

1. *Statement No. 1:* The first Professional Fee Statement shall be filed no later than the twentieth (20th) day of the month following the month during which the Petition was filed. This Statement shall provide detail regarding the services rendered from the date of the filing of the Petition until the last day of the month in which the Petition was filed. Since most Petitions will not have been filed on the first day of the month, it is anticipated that *Statement No. 1* will cover a period of less than thirty (30) days.
2. *Statements No. 2 and following:* These Statements shall be filed on a monthly basis and are due within twenty (20) days after the end of the prior calendar month. Each such Statement shall disclose the fees earned and expenses incurred during the prior calendar month and the remainder of the pre-petition funds available for services to be rendered in the future.

If the professional fails to timely file a Professional Fee Statement, the United States Trustee may file a motion to disgorge the unused funds as disclosed in the last filed Statement.

The requirements set forth in Paragraphs 3, 4, 5 and 7 of Guideline No. 7 (Applications for Payment of Professional Fees and Expenses) apply to the Professional Fee Statements required under this Guideline.

The United States Trustee reserves the right to raise an objection to any fee or expense application filed in any case whether or not an objection has been raised as to any Professional Fee Statement filed in the case.

*This Guideline only applies to pre-petition payments to professionals. Requests for post-petition retainers and all post-petition fee applications must fully comply with the requirements set forth in Guideline No. 6 and Guideline No. 7.*

This Guideline is applicable to all Chapter 11 cases filed on or after December 1, 1987.

\* U.S. Government Printing Office: 1989-241-719/06309